

DECISION OF THE VICTORIAN ABORIGINAL HERITAGE COUNCIL IN RELATION TO AN APPLICATION BY THE LATJI LATJI MUMTHELANG ABORIGINAL CORPORATION

DATE OF DECISION: 21 MARCH 2013

Decision

On 21 March 2013 the Victorian Aboriginal Heritage Council (**Council**) made a decision on the Latji Latji Mumthelang Aboriginal Corporation (**LLMAC**) Registered Aboriginal Party (**RAP**) application (**application**).

Application Area

The western boundary of the application area is the Victorian-South Australian border from the Mallee Highway to the Murray River. The northern boundary extends from the South Australian border to Narrung. From there the eastern boundary extends southward in a diagonal direction to Lake Tyrrell. Much of the southern boundary is represented by the Mallee Highway.

Reasons for Decision

Traditional and familial links

In accordance with the Act, Council accords priority to groups with traditional and familial links to a particular application area to give appropriate status and rights to Traditional Owner groups in cultural heritage management and protection. To achieve the objectives of the Act, Council gives preference to RAP applicants which are single, inclusive groups and representative of Traditional Owners in the respective application area.

LLMAC states that Latji Latji People are the Traditional Owners of the area it claims. LLMAC also names apical ancestors of Latji Latji People consistent with information about Latji Latji ancestry and a family tree included in material provided. However LLMAC did not explain how LLMAC members are linked to the named apical ancestors or how LLMAC represents Traditional Owners.

Council wrote to LLMAC seeking further information about the traditional and familial links of LLMAC members and LLMAC representation. LLMAC responded to part of Council's request but not all.

While Council did not dispute that LLMAC represents some individuals with traditional and familial links to the application area, based on the information available to it Council did not consider that LLMAC was necessarily an organisation representative of all Traditional Owners with connection to the application area.

Other relevant matters

Overlapping RAP applications:

On the information available to Council, it was not clear that LLMAC meets the Council's principle to give priority to applications made by groups that represent Traditional Owners and are supported by Traditional Owners of the Country affected. While Council did not dispute that LLMAC represents some individuals with traditional and familial links to the Application Area, Council had regard to the competing claims made by Tati Tati Aboriginal Corporation (**TTAC**), Barengi Gadjin Land Corporation (**BGLC**) and Murray Valley Aboriginal

Cooperative (MVAC) that they represent Aboriginal people with traditional and familial links in the Application Area. The majority of the Application Area was covered in parts by the RAP applications of TTAC, BGLC and MVAC, and Council notes that the ethno-historical record of Traditional Ownership in the north west of Victoria is particularly complex. Council was therefore unable to determine the extent of LLMAC core Country in the Application Area.

Native title claims:

Council seeks to ensure that its decision-making as best as possible reflects relevant native title processes and outcomes. Council noted the registered native title claim in the name of the Latji Latji Peoples that lies within the area claimed in the LLMAC RAP application. Council also noted that at a Native Title Directions Hearing on 21 June 2012, Native Title Services Victoria informed the Federal Court of the prospect that it would seek to reformulate new claims in the area covered by the Latji Latji native title claim.

Public comments:

Council sought the views of Traditional Owners from the same region as LLMAC in response to advertisements placed in local and national newspapers in July 2012.

Comments were received from two organisations that claim traditional connection to the LLMAC application area. These organisations raised concerns about LLMAC's ability to inclusively represent the Traditional Owners of the area included in the LLMAC application. The comments were forwarded to LLMAC and LLMAC was given the opportunity to respond. LLMAC responded to comments from one of the objectors and those comments were taken into account by Council.

Charter of Human Rights and Responsibilities

The Council gave careful consideration to the *Charter of Human Rights and Responsibilities Act 2006 (Charter)*, in particular the relevant distinct cultural rights of Aboriginal persons in s 19(2)(d) of the Charter. The Council formed the view that a decision to decline to register LLMAC is compatible with the Charter.

Summary

Having regard to the information presented above as well as other relevant factors, Council reached the following conclusions:

- LLMAC represents some people with traditional, familial, historical and contemporary links to the area covered by the LLMAC RAP application.
- It is not clear whether LLMAC represents all Traditional Owners who are descendants of Latji Latji apical ancestors.
- The extent of Latji Latji core Country could not be identified due to a lack of evidence and the existence of overlapping RAP applications in the Application Area.

Conclusion

Taking into account matters raised above and other relevant factors, and relying on its own cultural knowledge, Council decided LLMAC was not an appropriate organisation to appoint as a RAP for the Application Area.

Denise Lovett

Chairperson
Denise Lovett
Victorian Aboriginal Heritage Council